

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Melanyn Rivas	Team: Squad #09	CCRB Case #: 202103932	<input type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Incident Date(s) Thursday, 06/17/2021 8:47 AM	Location of Incident: West 207th Street and Broadway	18 Mo. SOL 12/17/2022	Precinct: 34
Date/Time CV Reported Thu, 06/17/2021 8:47 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 06/30/2021 10:54 AM

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Carlos Estrella	10087	961745	034 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Patrick McGurk	04648	966207	034 PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Carlos Estrella	Discourtesy: Police Officer Carlos Estrella spoke discourteously to § 87(2)(b)	

### Case Summary

On June 17, 2021, § 87(2)(b) filed the following complaint with IAB, which was then received at the CCRB on June 30, 2021, via log # 2021-14312.

On June 17, 2021, at approximately 8:47 a.m., § 87(2)(b) was § 87(2)(b) in front of Morenito Mambo Restaurant, located on the corner of West 207<sup>th</sup> Street and Broadway in Manhattan. While selling books, one of the restaurant's staff members allegedly pushed § 87(2)(b) and told him that he could not stand there. § 87(2)(b) proceeded to call 911 and PO Carlos Estrella, PO Patrick McGurk, PO Juan Rosario, and Sgt. Bryant Harinarain of the 34<sup>th</sup> Precinct responded on scene. While on scene, § 87(2)(b) explained to PO Estrella that the restaurant owner had assaulted him. PO Estrella became frustrated by § 87(2)(b)'s request and told § 87(2)(b) either "fuck you" or "motherfucker" (**Allegation A: Discourtesy**, § 87(2)(g)). After a complaint was written for § 87(2)(b) all four officers left the scene.

§ 87(2)(b) was not arrested and did not receive a summons in relation to this incident.

On July 20, 2021, the investigation obtained six videos captured by the body-worn cameras of PO Estrella, PO McGurk, PO Rosario and Sgt. Harinarain (**Board Review, 01**).

### Findings and Recommendations

#### **Allegation (A) Discourtesy: Police Officer Carlos Estrella spoke discourteously to § 87(2)(b).**

It is undisputed that PO Estrella used profanity in conversation with § 87(2)(b).

In his interview with the CCRB, § 87(2)(b) stated that he was § 87(2)(b) when he had a dispute with the owner of the restaurant located at the southeast corner of West 207<sup>th</sup> Street and Broadway (**Board Review, 02**). § 87(2)(b) explained that the owner of the restaurant had asked him to move away as § 87(2)(b) was § 87(2)(b) approximately six to seven feet from the entrance of the restaurant. Additionally, the owner of the restaurant pushed § 87(2)(b) and threw his books on the ground. § 87(2)(b) proceeded to call 911, and PO Estrella responded on scene. § 87(2)(b) told PO Estrella that the restaurant owner had assaulted him, and that he wanted a resolution to the problem. § 87(2)(b) said that PO Estrella became "frustrated" by his request and while speaking with him PO Estrella said either, "Fuck you" or "Motherfucker." § 87(2)(b) stated that PO Estrella only used profanity once.

In his interview with the CCRB, PO Estrella stated that on the date of the incident § 87(2)(b) alleged that he was pushed by one of the restaurant's workers and requested that the worker be arrested (**Board Review, 03**). PO Estrella described that he was calm at first while speaking to § 87(2)(b) but his demeanor changed because § 87(2)(b) remained adamant about having the restaurant's worker arrested despite PO Estrella explaining that it was not an arrestable offense. PO Estrella stated that he did not say anything discourteous directed towards § 87(2)(b) but rather he said something discourteous in conversation with § 87(2)(b). Specifically, PO Estrella said, "It's not a fucking assault," while in conversation with § 87(2)(b). PO Estrella stated that his use of profanity was accidental, and after using the word he corrected himself.

At minute 5:40, PO Estrella's camera depicts PO Estrella telling § 87(2)(b) "there is no fucking, there is no assault" (**Board Review, 04**).

The NYPD's mission statement, contained in Patrol Guide Procedure 200-02 includes "treating every citizen with compassion, courtesy, professionalism" (**Board Review, 05**).

§ 87(2)(g)

§ 87(2)(g)

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review, 06**).
- PO Estrella has been a member of service for five years and has been a subject in two CCRB

complaints and three allegations, none of which were substantiated. § 87(2)(g)

**Mediation, Civil, and Criminal Histories**

- Due to a mediation hiatus, this case could not be sent to mediation.
- As of September 28, 2021, a FOIL inquiry was sent to the New York City Office of the Comptroller for any Notice of Claim filed in regards this to complaint, and that office has not yet replied (**Board Review, 07**).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 2

Investigator:	<u>Melanyn Rivas</u>	<u>Investigator Melanyn Rivas</u>	<u>10/04/2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Monique West</u>	<u>IM Monique West</u>	<u>11/10/2021</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date